

J. ADMINISTRATIVE DISQUALIFICATION HEARINGS (ADH) FOR FOOD ASSISTANCE

CLARIFYING INFORMATION

1. An Intentional Program Violation (IPV) of the Food Assistance program can be determined by a decision in an Administrative Disqualification Hearing or by a decision of the court in a criminal prosecution.
2. The DSHS Board of Appeals is responsible for issuing the final order in Administrative Disqualification Hearings. [see WAC 388-08-464(1)(b)]
3. Separate instances of suspected IPV could be combined into one complaint that totals \$450 or more. See **FRAUD**.
4. The department must prove the IPV with “clear and convincing evidence”. This means that the evidence must establish that it is highly probable the actions that resulted in the overpayment were intentional.
5. It is not necessary to delay an ADH pending prosecution. DFI should always be informed if a referral is made on a case pending prosecution.

FHC RESPONSIBILITIES

1. Review the Disqualified Recipient System (DRS) to determine if the person suspected of an IPV has a record of past disqualifications.
2. Determine the appropriate penalty based on the record of past disqualifications, if any [see **FRAUD** for details regarding IPV penalties]
3. Review the department records to identify evidence that will establish:
 - a. An overpayment or combination of overpayments exists which total over \$450 (e.g. a copy of the overpayment letter with proof of service if already served, or a copy of the 5-007 if the overpayment letter has not been served).
 - b. The respondent was aware of the reporting responsibilities (a signed Rights and Responsibilities form dated before the first month of the overpayment).

- c. There was a change in circumstances that affected eligibility (e.g. an employer report which establishes the date that work began)
 - d. The respondent had an opportunity to report the change, and failed to do so (e.g. a change of circumstance completed during the period of the overpayment)
 - e. The respondent provided false or misleading information (e.g. denied working at an eligibility review).
- 4. Ensure that all of the evidence to be proposed at the hearing is included. The ALJ may not be able to admit new evidence at the hearing that was not included in the listing of evidence on the complaint.
 - 5. Complete the Disqualified Hearing Complaint, DSHS 12-119(x) or ACES letter DH1F (First Occurrence), DH2F (Second Occurrence), DH3F (Third Occurrence). Include a listing of the evidence that will be used at the hearing.
 - 6. Send the complaint to the Office of Administrative Hearings and include a blank envelope (not window) which shows the CSO return address. OAH will schedule the hearing and send the notice to the respondent in the CSO envelope.
 - 7. If the notice is unclaimed or otherwise undeliverable, it will be returned to the CSO. Determine whether delivery should be attempted again either by personal service or remailing of the certified mail.
 - 8. If no further attempts at delivery will be made, notify OAH immediately that delivery has not been accomplished and the case should be removed from the docket.
 - 9. Hold the case until it can be resubmitted to the OAH for scheduling.

Proposed Decision:

Review the decision to determine whether the department is in agreement with the findings and conclusions. If yes, take no further action. If no, complete a request for review following the guidelines in WAC 388-08-464.

Final Agency Decision:

Review the decision to determine whether you agree that the review judge has applied the

law correctly. If you agree, take appropriate action to implement the final decision. If you do not agree, request a reconsideration in accordance with WAC 388-08-470.